

## DECLARATION FOR PATENT APPLICATION

Docket No. A-1028

I, below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original first and sole inventor (if only one name is listed below) or an original first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled TISSUE MARKING DEVICE

the specification of which

(Check one) ☐ is attached hereto  
☒ was filed on September 16, 1994  
as Application Serial No. 08/308,097  
and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I have knowledge the duty to disclose to the Office all information known to me to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Foreign Application(s)

Priority Claimed

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

(Number) (Country) (Day/Month/Year Filed)

(Number) (Country) (Day/Month/Year Filed)

(Number) (Country) (Day/Month/Year Filed)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Number)

(Filing Date)

(Status -patented, pending, abandoned)

(Application Number)

(Filing Date)

(Status -patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Donald E. Stout

I direct all telephone calls to Donald E. Stout at telephone number (714) 366-3600  
I direct all correspondence to Donald E. Stout  
Peterson, Uxa & Myers  
910 Calle Negocio, Suite 280  
San Clemente, CA 92673-6201

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

I, the name of sole or first inventor (given name, family name) Seth A. Foerster

Inventor's signature [Signature] Date 11-1-94

Residence San Clemente, California Citizenship U.S.A.

Post Office Address 758 Via Otono, San Clemente, CA 92672

I, the name of second joint inventor (given name, family name) Fred H. Burbank

Second Inventor's signature [Signature] Date 11/2/94

Residence San Juan Capistrano, California Citizenship U.S.A.

Post Office Address 30982 Steeplechase Drive, San Juan Capistrano, CA 92675

I, the name of third joint inventor (given name, family name) Mark A. Ritchart

Third Inventor's signature [Signature] Date 11-1-94

Residence Murietta, California Citizenship U.S.A.

Post Office Address 41045 Willowbend Drive, Murietta, CA 92563

I, the name of fourth joint inventor (given name, family name) Elias A. Zerbouni

Fourth Inventor's signature [Signature] Date 11-4-94

Residence Baltimore, Maryland Citizenship U.S.A.

Post Office Address 5 Rocklandvue Court, Baltimore, MD 21204

Applicant or Patentee: Foerster et al  
Application or Patent No.: 08/308,097  
Date of Issuance: 16 September 1994

Docket No.: A-1028

METHODS AND DEVICES FOR MARKING AND DEFINING TISSUE

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) & 1.27(e))—SMALL BUSINESS CONCERN

I hereby declare that I am

the owner of the small business concern identified below,  
an official of the small business concern empowered to act on behalf of the concern identified below.

NAME OF SMALL BUSINESS CONCERN Biosys Medical, Inc.  
ADDRESS OF SMALL BUSINESS CONCERN 27130 A Paseo Espada, Suite 1424  
San Juan Capistrano, CA 92675

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled: METHODS AND DEVICES FOR MARKING AND DEFINING TISSUE

inventor(s): Seth A. Foerster, Fred H. Burbank, Mark A. Ritchart, and Elias A. Zerhouni

as disclosed in  
the specification filed herewith  
application serial no. 08/308,097, filed 16 September 1994  
patent no. \_\_\_\_\_ issued \_\_\_\_\_

The rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

WE  
ADDRESS  
INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

WE  
ADDRESS  
INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Steven L. Gex  
TITLE OF PERSON IF OTHER THAN OWNER President  
ADDRESS OF PERSON SIGNING 27130 A Paseo Espada, Suite 1424, San Juan Capistrano, CA 92675

SIGNATURE [Signature] DATE 10/4/94

licant or Patentee: Foerster et al  
ial or Patent No.: 08/308,097  
d or Issued: 16 September 1994

Docket No. A-1028

METHODS AND DEVICES FOR MARKING AND DEFINING TISSUE

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 C.F.R. 1.9(f) & 1.27(b))—INDEPENDENT INVENTOR

I, the below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 C.F.R. 1.9(c) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention titled METHODS AND DEVICES FOR MARKING AND DEFINING TISSUE described in

the specification filed herewith  
application serial no. 08/308,097, filed 16 September 1994  
patent no. \_\_\_\_\_ issued \_\_\_\_\_

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 C.F.R. 1.9(c) if that person had the invention, or to any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e).

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license any rights in the invention to any person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☐ no such person, concern, or organization  
☒ persons, concerns or organizations listed below

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights in the invention averring to their status as small entities. (37 C.F.R. 1.27)

1. FULL NAME Biosys Medical, Inc  
ADDRESS 27130 A Paseo Espada, Suite 1424, San Juan Capistrano, CA 92675  
☐ INDIVIDUAL ☒ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

2. FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

3. FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

ETHAN A. FOERSTER  
NAME OF INVENTOR

FRED H. BURBANK  
NAME OF INVENTOR

MARK A. RITCHART  
NAME OF INVENTOR

ELIAS A. ZERHOUNI  
NAME OF INVENTOR

Eth A. Foerster  
SIGNATURE OF INVENTOR

x Fred H. Burbank  
SIGNATURE OF INVENTOR

x Mark A. Ritchart  
SIGNATURE OF INVENTOR

x Elias A. Zerhouni  
SIGNATURE OF INVENTOR

10/13/94

DATE

x 10/13/94  
DATE

x 10-13-94  
DATE

x 10-6-94  
DATE